

**BOULDER CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY**

Tuesday, July 20, 2010

6:00 p.m.

AGENDA

1. CALL TO ORDER AND ROLL CALL

Mayor Osborne called the regular July 20, 2010 council meeting to order at 6:04 p.m. in the council chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, Karakehian and Morzel.

2. PUBLIC PARTICIPATION and COUNCIL/STAFF RESPONSE

1. Paul Sheldon with Natural Capitalism Solutions spoke to the utility ballot item, consent item 3I, and noted that putting a franchise item on the November ballot was premature. Council Member Cowles asked Mr. Sheldon to forward information related to the Oregon Energy Trust.
2. Tom Asprey, a retired electrical engineer, commented that competition is key in getting what Boulder needs. Please do not place an Xcel Franchise extension item on the November ballot.
3. Leslie Glustrom commented that Xcel is asking Boulder to come to a place where it can clearly outnumber Boulder's position. She urged Council's due diligence in looking at the competition and giving the community one year to look at things.
4. Steve Pomerance spoke to stranded investments and a depreciation schedule for Xcel's coal plants. He noted that Xcel would not have to expend money upgrading its current plants if the city did not sign with them so it would actually save Xcel money.
5. Seth Brigham objected to the 2 minute speaking rule and criticized the rules of decorum proposal that was presented to Council in a recent Weekly Information Packet memorandum.
6. Dan C. Winters spoke to a Daily Camera article on restricted street parking. He urged Council to review this prior to August 13 and suggested Council send the proposal back to the Transportation Board for alternative solutions. Cities should not have exclusive use of streets that everyone pays for.
7. Bonnie Sheppard, long time Gapter Road resident, commented that the cost of annexation is approximately \$60,000 per property. She noted there were still two issues, the stormwater and flood control PIF and the interest rate to be charged by the City to residents. She urged Council to provide financial relief to the neighborhood by supporting the neighborhood on those issues.
8. Gifford Miller, Gapter resident, agreed with the previous speaker regarding the two outstanding annexation issues. He also spoke to residents' ability to retain wells to use for domestic use and asked Council to strike those restrictions. Regarding the Burke II annexation, he urged Council not to waive the leash laws.

9. Robert Sharpe commented that he had attended 9 out of 10 of the last council meetings and suggested that there were few public interruptions and more Council interruptions. He opposed the rules of decorum proposal and suggested council should focus on how it treats the public versus how the public treats them.
10. Carolyn Bninski with the Rocky Mountain Peace and Justice Center spoke to the David Maddison appeal filed recently with the City Attorney's Office related to a homeless camping issue. She spoke to other cities that have lost similar court cases and urged council to reconsider its ordinance and consider the approach Colorado Springs used.
11. Hugh H. Higgins commented that there was no rent controlled housing in Boulder to aid the homeless population. He also noted the HOME group meets at 9:30 a.m. on Wednesday mornings at the First Congregational Church.
12. Karey Christ-Janer spoke to the "replacement" tax expressing that it was an appropriate name and appropriate time to bring something to voters that was not subject to the outside influence of an investor run company. Keeping options open is most important.
13. Elizabeth Allen spoke in favor of municipalization. She also spoke to the rules of decorum proposal commenting that the only item that made sense was restricting guns.
14. Rob Smoke agreed with remarks from Mr. Brigham, Mr. Sharpe and Ms. Allen regarding the rules of decorum commenting that it was completely outwardly directed.
15. Jay Beyer, Gapter Road resident, asked Council to carefully read through the neighborhood's supplemental packet before making a decision. He requested any support possible from the City to help reduce costs to residents.

Mayor Osborne reminded Gapter residents that there would be a second reading of this item and Council Member Morzel suggested a Council field trip to the area.

City Manager Follow-up:

None.

City Attorney Follow-up:

None.

City Council Follow-up: - 6:45 p.m.

Council Member Gray clarified that the second reading of the Gapter Road annexation was scheduled for August 17, 2010.

Council Member Gray commented that the rules of decorum would be discussed at the September 21, 2010 Council meeting.

Council Member Morzel noted that the rules of decorum were discussed at the annual goal setting retreat and not focused on any one individual and noted that Council meetings were business meetings where certain behaviors were not appropriate. There was no intent to curtail freedom of speech and public comment was certainly welcome.

Council Member Morzel indicated that she would read the Gapter neighborhood supplemental document prior to the August 17 public hearing.

Council Member Morzel also commented that she would still like to see more done for the homeless in Boulder.

Mayor Osborne spoke to the University Hill parking district comments by Mr. Winters and suggested that he should contact Molly Winter, DUHMD/Parking Director, to obtain clarifying information regarding the parking district proposal process.

3. **CONSENT AGENDA: - 6:55 p.m.**

- A. **APPROVAL OF CITY COUNCIL MEETING MINUTES FROM MAY 18, 2010.**
- B. **APPROVAL OF CITY COUNCIL MEETING MINUTES FROM JULY 6, 2010.**
- C. **CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION APPROVING AND AUTHORIZING USE OF \$1,500,000 IN QUALIFIED ENERGY CONSERVATION BOND ALLOCATION FOR ENERGY EFFICIENCY IMPROVEMENTS IN CITY FACILITIES.**
- D. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN EMERGENCY ORDINANCE ADOPTING SUPPLEMENT NO. 105, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS, 7711, 7716, 7719, 7722, AND 7723 AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981.**
- E. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, THE FOLLOWING FIVE ORDINANCES RELATED TO THE ANNEXATION AND INITIAL ZONING OF THE GAPTER ROAD NEIGHBORHOOD AND THE BURKE II OPEN SPACE AND MOUNTAIN PARKS PROPERTY:**
 - 1. **THREE ORDINANCES RELATING TO THE ANNEXATION OF 30 PROPERTIES TOTALING 30.5 ACRES WITHIN THE GAPTER ROAD NEIGHBORHOOD LOCATED AT 993 GAPTER RD., 980 GAPTER RD., 961 GAPTER RD., 954 GAPTER RD., 932 GAPTER RD., 931 GAPTER RD., 898 GAPTER RD., 897 GAPTER RD., 881 GAPTER RD., 880 GAPTER RD., 859 GAPTER RD., 858 GAPTER RD., 841 GAPTER RD., 819 GAPTER RD., 814 GAPTER RD., 797 GAPTER RD., 792 GAPTER RD., 777 GAPTER RD., 772 GAPTER RD., 751 GAPTER RD., 724 GAPTER RD., 723 GAPTER RD., 1225 GAPTER RD., 1156 GAPTER RD., 1112 GAPTER RD., 1084 GAPTER RD., 1064 GAPTER RD., 1051 GAPTER RD., 1040 GAPTER RD., 1010 GAPTER RD. WITH AN INITIAL ZONING DESIGNATION OF RURAL RESIDENTIAL – 2 (RR-2);**
 - 2. **AN ORDINANCE PERTAINING TO THE ANNEXATION OF THE BURKE II, OPEN SPACE AND MOUNTAIN PARKS DEPARTMENT PROPERTY LOCATED AT 0 BASELINE ROAD BETWEEN 55TH STREET AND CHERRYVALE ROAD WITH AN INITIAL ZONING DESIGNATION OF PUBLIC (P). APPLICANTS/OWNERS: CITY OF BOULDER, OPEN SPACE AND MOUNTAIN PARKS DEPARTMENT; AND**

- 3. AN ORDINANCE PERTAINING TO THE APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BOULDER AND THE COUNTY OF BOULDER REGARDING THE LOAN OF PUBLIC FUNDS FOR THE CONSTRUCTION OF NECESSARY WATER AND WASTEWATER UTILITIES IN GAPTER AND MCSORLEY ROADS.**
- F. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE AMENDING SECTION 6-1-16, "DOGS RUNNING AT LARGE PROHIBITED," B.R.C. 1981 TO ADD A PORTION OF THE BURKE II PROPERTY TO THOSE AREAS IN WHICH VOICE AND SIGHT CONTROL OF DOGS IS PERMITTED AND SETTING FORTH RELATED DETAILS.**
- G. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, TWO ORDINANCES REZONING CERTAIN PHASE 1 BOULDER JUNCTION PROPERTIES: SHOWN ON THE MAPS AS EXHIBIT A IN ATTACHMENTS A AND B:**
- 1. AN ORDINANCE REZONING PROPERTIES TO MIXED USE – 4 (MU-4) IN ATTACHMENT A.**
 - 2. AN ORDINANCE REZONING PROPERTIES TO RESIDENTIAL HIGH -6 (RH-6) IN ATTACHMENT B.**
- H. CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION IN OPPOSITION TO COLORADO'S 2010 BALLOT MEASURES DESIGNATED AS PROPOSITION 101, AND AMENDMENTS 60 AND 61.**
- I. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO PUBLISH BY TITLE ONLY TWO ORDINANCES SUBMITTING TO THE ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, THE ISSUES OF:**
- 1. WHETHER THE CITY OF BOULDER TAXES SHOULD BE INCREASED BY UP TO \$3.9 MILLION (IN THE FIRST FULL FISCAL YEAR) ANNUALLY AND BY SUCH AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION OF A UTILITY EXCISE TAX ON PUBLIC UTILITY COMPANIES THAT DELIVER ENERGY TO CUSTOMERS IN THE FORM OF ELECTRICITY AND GAS BEGINNING JANUARY 1, 2011 AND EXPIRING ON DECEMBER 31, 2015; AND SETTING FORTH RELATED DETAILS; AND**
 - 2. WHETHER THE CITY OF BOULDER TAXES SHOULD BE INCREASED BY UP TO \$4.4 MILLION (IN THE FIRST FULL FISCAL YEAR) ANNUALLY AND BY SUCH AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION OF A UTILITY EXCISE TAX ON PUBLIC UTILITY COMPANIES THAT DELIVER ENERGY TO CUSTOMERS IN THE FORM OF ELECTRICITY AND GAS BEGINNING JANUARY 1, 2011**

**AND EXPIRING ON DECEMBER 31, 2015; AND SETTING FORTH
RELATED DETAILS.**

Item 3I was pulled from the consent agenda by Council Members Ageton and Appelbaum.

Council Member Ageton noted that item 3H, first paragraph needed to be amended and state “in opposition to” rather than “in support of.”

Council Members Ageton and Appelbaum asked that item 3I be pulled from the consent agenda.

Mayor Osborne, Deputy Mayor Wilson and Council Member Cowles spoke to Amendments 60, 61, and Proposition 101 and the negative impacts those pieces of legislation would have on the City of Boulder.

Deputy Mayor Wilson moved, seconded by Morzel to approve consent items 3A through 3H, with item 3H amended as requested by Council Member Ageton and item 3I removed from the consent agenda for later discussion. The motion carried unanimously 9:0. Vote: 7:22 p.m.

4. **CALL- UP CHECK IN:** None.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS:**

- A. **SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7733 PLACING ON THE NOVEMBER 2, 2010 SPECIAL MUNICIPAL COORDINATED ELECTION, A BALLOT REVENUE ISSUE RELATING TO AN INCREASE OF THE ACCOMMODATIONS TAX RATE FROM 5.5% TO 7.5% AND SETTING FORTH DETAILS RELATED THERETO. – 7:22 P.M.**

City Manager Brautigam introduced the item and provided the City’s position on the ballot item related to the accommodations tax and noted that staff’s recommendation was to move forward with the item as presented.

The public hearing was opened:

1. Mary Ann Mahoney with the Boulder Convention and Visitor’s Bureau (BCVB) spoke in support of the ballot language as presented. She suggested that flexibility for the future is what the BCVB hoped to achieve and commented that the group meetings market is where more business can be generated for the community. She circulated an Alaskan Airlines article that was recently done on Boulder that was four pages.
2. Susan Connelly, Chair of the Boulder Convention and Visitors Bureau Advisory Board, commented that the Board is aware of what other communities are doing to promote tourism and see this as a win-win opportunity. She urged council to support the ballot measure with the language proposed by the Board.

There being no further speakers the public hearing was closed.

Council Member Gray raised the issue of vacation rentals by property owners. If there were 124 properties booked it would generate \$630,000. These are illegal as no short term rentals are allowed for less than 30 days. She indicated she would send a hotline asking staff to evaluate what kind of staff time would be involved in taking a look at the issue.

Mayor Osborne clarified that the current language was written such that short term rental accommodations in some zones could be accommodated at a later time.

City Manager Brautigam commented that staff was aware of the issue regarding vacation rentals and it was on the list for the work plan for next year as the work would be quite extensive. Council could consider this work item at the next council retreat.

Deputy Mayor Wilson moved, seconded by Ageton to adopt Ordinance No. 7733 placing on the November 2, 2010 special municipal coordinated election, a ballot revenue issue relating to an increase of the accommodations tax rate from 5.5% to 7.5%.

Council Member Gray moved, seconded by Ageton to amend the main motion by incorporating the amendments submitted by the Boulder Convention and Visitors Bureau to amend section 3-3-1 Legislative Intent to read as follows:

“...However, although the city council recognizes that it cannot bind future city councils, it nonetheless declares its intention that **at least 20%** of the revenues generated by this tax be appropriated by future city councils for purposes of promoting program and services that bring increased tourism to the city **and at least 13% of the revenues generated by this tax be appropriated by future city councils for purposes of improvements or programs that benefit visitors as well as residents.**”

Council Member Appelbaum suggested he was not thrilled with the “legislative intent” portion of the ordinance but would support the main motion.

Council Member Cowles commented that there should be a way to tax the short term rentals on a temporary basis until there is time to run through the full process.

Deputy Mayor Wilson suggested the vacation rental issue should be dropped until the Council retreat in January.

Council Members Karakehian and Ageton expressed concern about a fixed dollar amount for the Convention and Visitors Bureau but acknowledged support of bringing tourism to the community.

Council Member Morzel raised concern about putting Boulder into a higher tax bracket which could hurt residents and businesses. It feels more honest to ask the public to pass a measure for the general fund to bridge the structural gap.

Council Member Karakehian expressed concern that an organization like the Hotel/Motel association might not support the measure.

Vote was taken on the amendment offered by Council Member Gray and seconded by Ageton. The amendment failed; 6:2 Gray and Morzel in favor. 8:05 p.m.

Vote was taken on the motion to adopt Ordinance No. 7733 placing on the November 2, 2010 special municipal coordinated election, a ballot revenue issue relating to an increase of the accommodations tax rate from 5.5% to 7.5%. The motion carried unanimously, 9:0.

B. SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7736 SUBMITTING TO THE ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, THE QUESTION OF AMENDING CITY CHARTER SECTION 84 TO ALLOW THE INSTALLATION OF ROOFTOP RENEWABLE ENERGY IMPROVEMENTS TO THE TOPS OF BUILDINGS THAT EXCEED 55 FEET IN HEIGHT, REGARDLESS OF WHETHER SUCH IMPROVEMENTS ARE APPURTENANT OR OTHERWISE ACCESSORY TO THE BUILDING; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES. – 8:13 P.M.

There being no speakers the public hearing was closed.

Council Member Morzel moved, seconded by Karakehian to adopt Ordinance No. 7736 submitting to the electors of the City of Boulder at the special municipal coordinated election to be held on Tuesday, November 2, 2010, the question of amending City Charter section 84 to allow the installation of rooftop renewable energy improvements to the tops of buildings that exceed 55 feet in height, regardless of whether such improvements are appurtenant or otherwise accessory to the building; setting forth the ballot title; and specifying the form of the ballot and other election procedures. ed in the staff memorandum. The motion carried unanimously 9:0. 8:19 p.m.

Council Member Gray clarified it was non-living space that would exceed the 55 height limit for rooftop solar. She also clarified with David Driskell that specific land use changes would come back as part of the larger solar project as the solar gardens legislation becomes active and into the following year.

Deputy Mayor Wilson commented that the city sponsored a gathering of solar providers in other city's regarding solar garden legislation and discussed how the various organizations can work together and with the Public Utilities Commission. He would like to see the County allow larger solar installations as well.

C. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT BY EMERGENCY TWO ORDINANCES: - 8:20 P.M.

1. EMERGENCY ORDINANCE NO. 7732 MAKING FINDINGS; APPROVING THE PETITION TO FORM THE BOULDER JUNCTION ACCESS GENERAL

IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT; ACCEPTING CONSENTS TO INCLUSION IN THE DISTRICT; FORMING THE DISTRICT, AND CALLING A SPECIAL ELECTION OF THE ELECTORS AND PROPERTY OWNERS TO BE CONDUCTED BY MAIL BALLOT ON NOVEMBER 2, 2010, AT WHICH THE DISTRICT ELECTORS AND PROPERTY OWNERS SHALL CONSIDER SETTING A MAXIMUM AD VALOREM PROPERTY TAX AND MAXIMUM DEBT WHICH MAY BE ISSUED BY THE DISTRICT; AMENDING TITLE 2 AND 8 OF THE BOULDER REVISED CODE TO BE CONSISTENT WITH THESE MATTERS, AND SETTING FORTH RELATED DETAILS; AND

- 2. EMERGENCY ORDINANCE NO. 7731 MAKING FINDINGS; APPROVING THE PETITION TO FORM FOR THE BOULDER JUNCTION ACCESS GENERAL IMPROVEMENT DISTRICT – PARKING; ACCEPTING CONSENTS TO INCLUSION IN THE DISTRICT; FORMING THE DISTRICT, AND CALLING A SPECIAL ELECTION TO BE CONDUCTED BY MAIL BALLOT ON NOVEMBER 2, 2010, AT WHICH THE DISTRICT ELECTORS AND PROPERTY OWNERS SHALL CONSIDER THE IMPOSITION OF AN AD VALOREM PROPERTY TAX AND AUTHORIZATION OF DEBT TO BE ISSUED BY THE DISTRICT; AMENDING TITLES 2 AND 8 OF THE BOULDER REVISED CODE TO BE CONSISTENT WITH THESE MATTERS, AND FURTHER DETAILS RELATED THERETO.**

Molly Winter, Director of the Downtown University Hill Management District and Parking Services, provided the presentation on the item. She spoke to the goals of developing the special improvement district in terms of parking and travel demand management.

Council Member Appelbaum raised concern about the District's ability to veto any decisions made on mill levies. Molly Winter clarified that the authority is for veto of increases in the 10-20 mill range. Kathy Haddock with the City Attorney's office clarified that Council always has the authority at any time to call for an election within the district. Voters can override the Advisory Commission.

Council Member Becker requested clarification regarding the catch-up payments asking why the 65% number was chosen for tax exempt entities. Ms. Winter explained that the number was discussed with HHS and felt like a fair compromise.

The public hearing was opened:

1. John Koval who was on the front end of the process for forming the district commented that there was a responsibility to broaden the vision for the transit village area. The spirit of the cooperative mission for the area needs council support.

There being no further speakers the public hearing was closed.

Council Member Gray moved, seconded by Morzel to adopt Ordinance No. 7732 by emergency making findings; approving the petition to form the Boulder Junction Access General Improvement District – Travel Demand Management; accepting consents to inclusion in the District; forming the District; and calling a special election of the District to be conducted by mail ballot on November 2, 2010; amending Titles 2 and 8 of the Boulder Revised Code to be consistent with these matters; and setting forth related details. The motion carried 8:1; Appelbaum opposed. 8:55 p.m.

Council Member Cowles moved, seconded by Ageton to adopt Ordinance No. 7731 by emergency making findings; approving the petition to form for the Boulder Junction Access General Improvement District – Parking; accepting consents to inclusion in the District; forming the District; calling a special election to be conducted by mail ballot on November 2, 2010; amending Titles 2 and 8 of the Boulder Revised Code to be consistent with these matters; and setting forth related details; and amended as set forth on page 9A in the supplement to agenda item 5C. The motion carried 8:1; Appelbaum opposed. 8:57 p.m.

Mayor Osborne complimented the staff work on the Boulder Junction District as an example for other municipalities.

D. SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7727 DESIGNATING THE BUILDING AND A PORTION OF THE PROPERTY AT 900 28TH STREET, TO BE KNOWN ALSO AS THE GREEN SHIELD BUILDING, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION CODE. OWNER/APPLICANT: FLATIRONS VILLAGE, LLC. THE HEARING ON THIS ITEM WILL BE HELD UNDER THE QUASI-JUDICIAL HEARING PROCEDURES OF THE BOULDER REVISED CODE. – 8:57 P.M.

City Clerk Alisa Lewis swore in all participants in the hearing.

James Hewat, Community Planning and Sustainability, provided the presentation on the item.

Ex-parte communications:
None

Council Member Ageton clarified that it was a condition of site review that the property owner bring the project to the Landmarks Board as the sequence of the project seemed odd. Mr. Hewat provided additional details for Council regarding the project's process.

Council Member Morzel asked whether part of the renovations were to excavate the basement. Mr. Hewat confirmed.

There being no speakers the public hearing was closed.

Mayor Osborne moved, seconded by Morzel to adopt Ordinance No. 7727 designating the building and a portion of the property at 900 28th Street, to be known also as the Green Shield Building, as an individual landmark under the City's Historic Preservation Code. The motion

carried unanimously 7:0; Karakehian and Wilson absent.

Public Hearing 5 E - CONSENT ITEM 3-I WAS TAKEN UP AT THIS TIME: - 9:16 p.m.

- J. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO PUBLISH BY TITLE ONLY TWO ORDINANCES SUBMITTING TO THE ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, THE ISSUES OF:**
3. **WHETHER THE CITY OF BOULDER TAXES SHOULD BE INCREASED BY UP TO \$3.9 MILLION (IN THE FIRST FULL FISCAL YEAR) ANNUALLY AND BY SUCH AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION OF A UTILITY EXCISE TAX ON PUBLIC UTILITY COMPANIES THAT DELIVER ENERGY TO CUSTOMERS IN THE FORM OF ELECTRICITY AND GAS BEGINNING JANUARY 1, 2011 AND EXPIRING ON DECEMBER 31, 2015; AND SETTING FORTH RELATED DETAILS; AND**
4. **WHETHER THE CITY OF BOULDER TAXES SHOULD BE INCREASED BY UP TO \$4.4 MILLION (IN THE FIRST FULL FISCAL YEAR) ANNUALLY AND BY SUCH AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION OF A UTILITY EXCISE TAX ON PUBLIC UTILITY COMPANIES THAT DELIVER ENERGY TO CUSTOMERS IN THE FORM OF ELECTRICITY AND GAS BEGINNING JANUARY 1, 2011 AND EXPIRING ON DECEMBER 31, 2015; AND SETTING FORTH RELATED DETAILS.**

Council questions for second reading:

Council Member Ageton indicated she would like to strike the word “programming and funding programs” that is on page 11, attachment B, the second of the two items and on page 13 in the first bullet. The issue should be about a clean energy future and not programming which is already addressed via the Climate Action Plan. The intent is not about developing programs.

Council Member Ageton referred to page 7, attachment A and asked whether the existing pass thru legislation expressly provide for this type of tax to be passed through to customers. What would the challenges be of the City to get this through Xcel and the PUC to get Xcel to collect and deliver the money to the City. Deputy City Attorney David Gehr responded that the answer was no. The type of tax that is mentioned in the pass thru legislation is the occupation tax.

Council Member Ageton asked about building in money to pay for studies and analysis and how that portion of the tax might be seen in terms of its legitimacy for Boulder to impose (not tied to doing business but tied to an analysis Boulder wants to undertake.)

Council Member Ageton also asked why staff recommended the 3.9 million dollar tax instead of using a higher amount given the current average being closer to 4.1 million dollars.

Council Member Morzel asked about the two tiered pricing structure rate increases and whether

that had been accounted for. She also noted that the ballot language refers to Public Service Company and should add an “also known as” for Xcel.

Council Member Becker asked whether taxes could begin later in the year other than January 1, 2011.

Council Member Cowles asked whether any of the \$450,000 could be utilized for legal costs.

Council Member Appelbaum suggested the concept of price stability be included in the 2nd bullet on page 9 of the handout. He also referred to page 8 where it discussed the five year utility excise tax and asked if the term ‘replacement’ could be added.

Council Member Gray referred to the third bullet of both issues and suggested the words “and more stable rates” be added. Could the word “collect” be used rather than “earmark” related to the \$450,000 so that money could be spent for other purposes. Deputy City Attorney Gehr responded that yes, TABOR allowed that provision.

Council Member Morzel asked why the term earmark was used instead of the word dedicate. The response was that the term earmark is used in the Boulder Revised Code.

There being no speakers the public hearing was closed.

Council Member Cowles referred to page 12 and agreed with striking the word programming per Council Member Ageton’s comments. He also supported adding the stable prices wording and adding ballot title language calling it a 5-year utility excise tax to replace revenue.

Council Member Appelbaum agreed to adding stable prices language. He would like to see numbers for electric vs. natural gas. He assumed electric was more stable than natural gas.

Council Member Ageton agreed with concerns about numbers that Council Member Appelbaum commented on and remaining revenue neutral. She asked what did revenue neutral mean? She would also like to see the number go up a bit. Regarding price stability, there had to be an intent, but the language can’t guarantee.

Council Member Becker commented she was on the same page as Council Member Appelbaum with increasing revenue, adding more explicit language, and removing the word programming.

Deputy Mayor Wilson agreed with Council Member Ageton’s change removing “programming” and would prefer language that gave an option for using money to implementation as well.

Deputy Mayor Wilson provided a language suggestion (option B, third bullet) that instead of earmark, the phrase “dedicate up to 450,000 per year of the revenue collected from this tax to develop and implement a cleaner energy supply” be used.

Council Member Gray moved, seconded by Morzel to introduce and order published by title only Ordinances No. 7747 and 7748 submitting to the electors of the City of Boulder at the special municipal coordinated election to be held on Tuesday, November 2, 2010, the issues of:

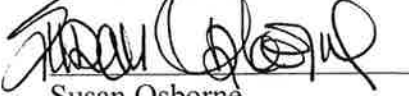
- 1) Whether the City of Boulder taxes should be increased by up to \$3.9 million (in the first full fiscal year) annually and by such amounts as may be collected annually thereafter by the imposition of a utility excise tax on public utility companies that deliver energy to customers in the form of electricity and gas beginning January 1, 2011 and expiring on December 31, 2015; and setting forth related details; and
- 2) Whether the City of Boulder taxes should be increased by up to \$4.4 million (in the first full fiscal year) annually and by such amounts as may be collected annually thereafter by the imposition of a utility excise tax on public utility companies that deliver energy to customers in the form of electricity and gas beginning January 1, 2011 and expiring on December 31, 2015; and setting forth related details.

The motion carried unanimously 9:0. 10:19 p.m.

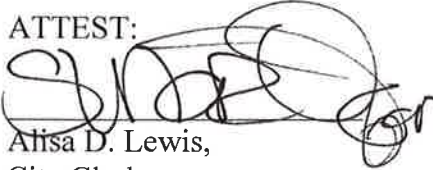
6. **MATTERS FROM THE CITY MANAGER:** -None.
7. **MATTERS FROM THE CITY ATTORNEY:** - None.
8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:** - None.
9. **PUBLIC COMMENT ON MATTERS:** - None.
10. **FINAL DECISIONS ON MATTERS:** - None.
11. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 10:20 P.M.

APPROVED BY:


Susan Osborne,
Mayor

ATTEST:


Alisa D. Lewis,
City Clerk